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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,366

03/30/2006

Frederik Bleker

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

FEATHERSTONE, MARK D

ART UNIT

PAPER NUMBER

2623

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/574,366	<b>Applicant(s)</b> BLEKER ET AL.	
	<b>Examiner</b> MARK D. FEATHERSTONE	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/21/2007</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 11-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 11 is directed to a “signal” for use in a system. A signal by itself is not considered to be statutory subject matter.

Claim 12 is directed to a “computer program”. A computer program, when not embodied in a tangible computer readable medium, is not considered statutory subject matter.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

4. Claims 1-7, 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Wasilewski et al, US Patent # 5418782.

With regard to claim 1, Wasilewski discloses:

A system for distributing a signal carrying a plurality of services, the system comprising:

a transmitter for generating numbering information pertaining to the plurality of services, for including the numbering information into the signal, and for transmitting the signal (column 2, lines 35-43; Wasilewski describes generating information about each service, and transmitting to the subscriber location; column 7, lines 1-10; Wasilewski describes the numbering information as part of the information transmitted to the subscriber),

a receiver for receiving the signal, for retrieving the numbering information from the signal, and for numbering services of the plurality of services in dependence of the numbering information (column 2, lines 43-50; Wasilewski describes a decoder at the subscriber location to receive and extract the information from the signal)

With regard to claims 2 and 3, Wasilewski discloses:

A system as claimed in claim 1, characterized in that the numbering information pertains to a history of the plurality of services/pertains to a modification (column 1, lines 54-57; Wasilewski describes the need for operators to re-assign service numbers; in column 3, lines 50-54; Wasilewski discloses obtaining the service definition which contains the service number designation. If this number were

unchanged, it would be based on history (what it was in the past), if it is new, it is a modification)

With regard to claim 4, Wasilewski discloses:

A system as claimed in claim 3, characterized in that the modification comprises a frequency modification, a transport stream modification, and/or a network modification (column 9, lines 45-55; Wasilewski discloses that a frequency modification can be sent to the subscriber)

With regard to claim 5, Wasilewski discloses:

A system as claimed in claim 1, characterized in that the numbering information pertains to a change in the transmitting (column 9, lines 45-55; Wasilewski discloses that a frequency modification can be sent to the subscriber, which would pertain to a change in the transmitting)

With regard to claims 6 & 7, Wasilewski discloses these features. As described in the claim 1 rejection, Wasilewski discloses transmitting (which inherently includes a transmitter) to a receiving subscriber (which inherently includes a receiver).

Claim 9 is rejected as applied to claim 2. As described, Wasilewski does base the channel numbering scheme on a history when there is no update.

Claim 10 is rejected as applied to claim 3. As described, when there is a modification in the numbering scheme, Wasilewski will send the updated information to the subscriber.

With regard to claim 11, Wasilewski discloses:

A signal for use in a system as claimed in claim 1, the signal comprising a representation of the numbering information (as described in the claim 1 rejection, Wasilewski discloses transmitting a signal to a receiving subscriber that includes the numbering information)

Claim 12 is the computer program to invoke the receiver of claim 7, and is rejected on this basis.

Claims 13-15 are the method of system claim 1, and are rejected as applied.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over “Wasilewski et al, US Patent # 5418782” in view of “Marnix, US PG Pub # 20050135285”.

With regard to claim 8, Wasilewski discloses:

A receiver as claimed in claim 7, however he fails to disclose the receiver arranged for numbering services of the plurality of services in dependence on a reception quality.

Marnix, in his application, discloses a reception device which includes channel numbers based on the quality of received signals ([0005])

A person of ordinary skill in the art at the time of invention would have found it obvious to modify the system of Wasilewski with the feature as taught by Marnix as it would be advantageous for the subscriber to view the best quality of signal possible.

### **Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK D. FEATHERSTONE whose telephone number is (571)270-3750. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F US Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

E-Signed

/Mark Featherstone/ - Art Unit 2623

/Andrew Y Koenig/  
Supervisory Patent Examiner, Art Unit 2623